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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CRMLA LICENSE No. 413-0901
)	
THE COMMISSIONER OF BUSINESS)	CITATION
OVERSIGHT,)	
)	
Complainant,)	
)	
vs.)	
)	
AMERIFIRST FINANCIAL, INC.)	
)	
Respondent.)	
)	
)	

Jan Lynn Owen, the Commissioner of Business Oversight (“Commissioner”), finds the following:

I
Parties

1. The Commissioner is authorized to administer and enforce the provisions of the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.) (“CRMLA”) and the rules issued under title 10 of the California Code of Regulations (“CCR”) that regulate the business

1 and activities of residential mortgage lenders.

2 2. AmeriFirst Financial Inc. (“AmeriFirst”) is a residential mortgage lender licensed by
3 the Commissioner under the CRMLA. AmeriFirst has its principal place of business located at 1550
4 East McKellips Road, Suite 117, Mesa, Arizona.

5 II

6 Statement of Facts

7 3. On or about May 19, 2014, the Commissioner commenced a regulatory examination
8 of AmeriFirst’s books and records.

9 4. In accordance with the Department’s practice, the Commissioner issued the company
10 a confidential Report of Examination dated March 19, 2015 (“ROE”). The ROE detailed the
11 Commissioner’s May 2014 examination findings. The ROE states on its face, “THIS REPORT
12 EXAMINATION IS STRICTLY CONFIDENTIAL.” The document further advises the licensee that:

13 *This report of examination has been made by an examiner designated*
14 *by the Commissioner of Business Oversight for use by the*
15 *Commissioner in the supervision of the company. Pursuant to Section*
16 *50302(e) of the Financial Code, this report is the property of the*
17 *Department of Business Oversight and is furnished to the company*
18 *examined for its confidential use. Under no circumstances shall the*
19 *company or any of its directors, officers, or employees disclose or*
20 *make public in any manner this report or any portion thereof to*
21 *anyone other than law enforcement officials, or other state or federal*
22 *regulatory agencies.* (emphasis in the original.)

23 5. Subsequent to the examination, on or about March 20, 2015, the Commissioner
24 commenced an administrative action against AmeriFirst for violations of the CRMLA, as disclosed in
25 the ROE. AmeriFirst agreed to settle all of the Commissioner’s claims and voluntarily entered into an
26 agreement with the Department on April 21, 2015.

27 6. On or about August 27, 2015, the Commissioner received an e-mail request from an
28 individual identifying himself as a Mortgage Asset Research Institute (“MARI”) associate. The
MARI associate requested information about the ROE issued to AmeriFirst. A copy of the ROE was
included with the associate’s inquiry. Based on the research associate’s correspondence,
it appeared AmeriFirst had disclosed the confidential ROE to MARI representatives.

8. The Commissioner subsequently issued a subpoena to AmeriFirst to determine if the company had disclosed the confidential ROE to MARI representatives. The AmeriFirst responded to the subpoena, producing a company e-mail, addressed to LexisNexis MARI Support, dated May 29, 2015. The body of the e-mail states, “Report of Examination is attached.” AmeriFirst included, as an attachment to the e-mail, a copy of the ROE. AmeriFirst disclosed the confidential ROE to MARI representatives.

Citation

9. Financial Code section 50302, subdivision (e), provides:

The statement of the findings of an examination shall belong to the commissioner and shall not be disclosed to anyone other than the licensee, law enforcement officials, or other state or federal regulatory agencies for further investigation and enforcement. Reports required of licensees by the commissioner under this division and results of examinations performed by the commissioner under this division are the property of the commissioner.

10. Financial Code section 50314, subdivision (d), provides:

Investigation and examination reports prepared by the commissioner's duly designated representatives are not public reports. Those reports may be disclosed to the officers or directors of a licensee that is the subject of the report for the purpose of corrective action by the officers or directors. Such a disclosure shall not operate as a waiver of the exemption specified in subdivision (d) of Section 6254 of the Government Code.

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1 11. Based on the foregoing findings, the Commissioner is of the opinion that AmeriFirst
2 disclosed the confidential ROE to third parties in violation of Financial Code sections 50302,
3 subdivision (e) and 50314, subdivision (d). Under the provisions of Financial Code section 50501.5,
4 AmeriFirst is hereby ordered to pay the Commissioner an administrative fine of \$2,500.00.

5 12. Financial Code section 50501.5 provides in pertinent part:

6 (a) If, upon inspection, examination, or investigation, the commissioner
7 has cause to believe that a licensee or person is violating or has violated
8 any provision of this division or any rule or order thereunder, the
9 commissioner or his or her designee may issue a citation to that
10 licensee or person in writing, describing with particularity the basis of
11 the citation. Each citation may contain an order to correct the violation
12 or violations identified and provide a reasonable time period or periods
13 by which the violation or violations must be corrected. In addition, each
14 citation may assess an administrative fine not to exceed two thousand
15 five hundred dollars (\$2,500) that shall be deposited in the State
16 Corporations Fund. In assessing a fine, the commissioner shall give due
17 consideration to the appropriateness of the amount of the fine with
18 respect to factors including the gravity of the violation, the good faith
19 of the person or licensees cited, and the history of previous violations.
20 A citation issued and a fine assessed pursuant to this section, while
21 constituting punishment for a violation of law, shall be in lieu of other
22 administrative discipline by the commissioner for the offense or
23 offenses cited, and the citation and fine payment thereof by a licensee
24 shall not be reported as disciplinary action taken by the commissioner.

25 (c) If, within 30 days from the receipt of the citation, the person cited
26 fails to notify the department that the person intends to request a
27 hearing as described in subdivision (d), the citation shall be deemed
28 final.

 (d) Any hearing under this section shall be conducted in accordance
with Chapter 5 (commencing with Section 11500) of Part 1 of Division
3 of Title 2 of the Government Code.

 (e) After the exhaustion of the review procedures provided for in this
section, the commissioner may apply to the appropriate superior court
for a judgment in the amount of the administrative fine and an order
compelling the cited person to comply with the order of the
commissioner. The application, which shall include a certified copy of

1 the final order of the commissioner, shall constitute a sufficient
2 showing to warrant the issuance of the judgment and order.

3 13. The administrative fine shall be made payable to the Department of Business
4 Oversight and submitted to Blaine A. Noblett, Senior Counsel, 320 W. 4th Street, Suite 750, Los
5 Angeles, California 90013-2344, within 30 days from the receipt of the citation, unless AmeriFirst
6 notifies the Department that it intends to request a hearing as described in subdivision (d) of Financial
7 Code section 50501.5.

8 Dated: July 5, 2016
9 Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

11 By _____
12 MARY ANN SMITH
13 Deputy Commissioner
14 Enforcement Division
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